

KRASKIN, LESSE & COSSON, LLP  
ATTORNEYS AT LAW  
2120 L Street, N.W., Suite 520  
Washington, D.C. 20037

TELEPHONE (202) 296-8890

TELECOPIER (202) 296-8893

November 27, 2000

Via Hand Delivery

Mr. K. David Waddell  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243-0505

Re: Generic Docket Addressing Rural Universal Service Docket No. 00-00523

Dear Mr. Waddell:

Enclosed for filing, please find the original plus thirteen (13) copies of the Reply Testimony of Steven E. Watkins submitted on behalf of the Rural Independent Coalition in the above-referenced docket. Copies are being served on counsel for all parties of record via facsimile this day.

Please contact me with any questions regarding this filing.

Very truly yours,

*Stephen G. Kraskin*  
Stephen G. Kraskin

Enclosures

cc: All parties of record

POSTED  
11-29-00

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

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**IN RE:**

**GENERIC DOCKET ADDRESSING  
RURAL UNIVERSAL SERVICE**

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)  
)

**DOCKET NO. 00-00523**

**REBUTTAL TESTIMONY OF**

**STEVEN E. WATKINS**

**on behalf of**

**Ardmore Telephone Company  
Ben Lomand Rural Telephone Cooperative, Inc.  
Bledsoe Telephone Cooperative, Inc.  
CenturyTel of Adamsville, Inc.  
CenturyTel of Claiborne, Inc.  
CenturyTel of Ooltewah-Collegedale, Inc.  
Concord Telephone Exchange, Inc.  
Crockett Telephone Company, Inc.  
DeKalb Telephone Cooperative, Inc.  
Highland Telephone Cooperative, Inc.  
Humphreys County Telephone Company  
Loretto Telephone Company, Inc.  
North Central Telephone Cooperative, Inc.  
Peoples Telephone Company, Inc.  
Tellico Telephone Company, Inc.  
Tennessee Telephone Company  
Twin Lakes Telephone Cooperative Corporation  
United Telephone Company  
West Tennessee Telephone Company, Inc.  
Yorkville Telephone Cooperative**

**"The Coalition of Small LECs and Cooperatives"**

**November 27, 2000  
REBUTTAL TESTIMONY OF STEVEN E. WATKINS**

DOCKET NO. 00-00523  
NOVEMBER 27, 2000

Q: PLEASE STATE YOUR NAME, EMPLOYER, BUSINESS ADDRESS, AND TELEPHONE NUMBER.

A: My name is Steven E. Watkins. I am a partner in the firm of Kraskin, Lesse & Cosson, LLP. My business address is 2120 L Street, N.W., Suite 520, Washington, D.C., 20037. My business telephone number is (202) 296-8890.

Q: ON WHOSE BEHALF ARE YOU TESTIFYING ?

A: I am testifying on behalf of the Coalition of LECs and Cooperatives ("Coalition").

Q: WHAT IS YOUR CURRENT POSITION ?

A: My title is Principal, Management Consulting in the firm of Kraskin, Lesse & Cosson, LLP, which provides legal and consulting services to telecommunications companies.

Q: HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY IN THIS PROCEEDING ?

A: Yes. I submitted direct testimony to the Tennessee Regulatory Authority ("TRA" or "Authority") on behalf of the 20 local exchange carrier ("LEC") members of the Coalition. Please refer to Testimony of Steven E. Watkins filed November 14, 2000, in this docket (to be referred to as "Watkins").

Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY ?

A: The purpose of this rebuttal testimony is to respond to the testimony filed in this docket on November 14, 2000, by the other parties. I will refer to the Direct Testimony of Robert T. Buckner filed on behalf of the Consumer Advocate and Protection Division ("Buckner"); Direct Testimony of William J. Barta filed on behalf of the Southeastern Competitive Carriers Association ("Barta"); and Sworn Testimony of William Christopher Jones filed on behalf of Verizon Wireless ("Jones"). I will also address the data filed by BellSouth in response to the TRA's data request.

I will respond to statements that Witness Barta makes in his testimony that, if accepted and relied upon, could lead the Authority to improper and counterproductive policy conclusions.

Q: DO YOU HAVE ANY INITIAL COMMENTS REGARDING THE TESTIMONY SUBMITTED BY WITNESS BARTA ?

A: Yes. His testimony, in several places, is premised on a basic misunderstanding of the Telecommunications Act of 1996 ("Act") with respect to Eligible Telecommunications Carrier ("ETC") designation, interconnection requirements, competitive entry, and the

objectives of Universal Service. Many of his analyses and conclusions are based on these faulty beliefs.

His testimony also relies on pro-competitive rhetoric which may be strategically seductive from the standpoint of his clients but is imbalanced and indifferent with respect to the equally important interests of all rural customers, the public interest, and the preservation and promotion of Universal Service as Congress clearly set forth in the Act. The claimed connections between competitive entry and universal service objectives suggested by Witness Barta simply do not exist.

Q: CAN YOU GIVE AN EXAMPLE OF WITNESS BARTA'S MISSTATEMENTS AND ILLOGICAL ASSERTIONS ?

A: Yes. Witness Barta, without explanation, concludes that "the use of universal service funds to support the costs of providing advanced services is anti-competitive." Barta at p. 9. The reasons cited by Witness Barta in his testimony do not explain or prove his position. He claims that competitive carriers are increasingly seeking to provide both basic and advanced services. *Id.* He then states that competitive carriers should not be obligated to contribute. *Id.* Neither observation logically supports his hypothesis. The fact that more carriers understand the value to users of advanced services supports the Coalition's view that the promotion of advanced services is a goal that Universal Service is intended to address, particularly for rural customers. With respect to his conclusion that competitive carriers should not contribute to universal service funding mechanisms, Mr. Barta is simply wrong. It is well established that all telecommunications carriers are obligated to contribute to universal service plans regardless of what kind of carrier they are and regardless of whether they provide advanced services or not.

On page 9 of his testimony, Witness Barta states erroneously that "[t]he implementation of an intrastate Rural Universal Service Fund to support advanced services would be contrary to the purpose and objectives established by Congress under the provisions of the Telecommunications Act of 1996." This statement is directly contradicted by explicit language in the Act. Congress addressed the promotion of advanced services in Sections 254(b)(2) and (3) of the Act as objectives of Universal Service, and Congress specifically granted to the States in Section 254(f) the authority to address universal service objectives beyond those that the FCC may address. *See Watkins* at pp. 7-8.

The Act clearly supports the conclusion that the promotion of the availability of advanced services is a goal that Congress intended to serve. *Id.* at pp. 7-10. The Consumer Advocate and Protection Division agrees that the promotion of advanced services by means of universal service support is a laudable goal. *Buckner* at p. 3.

Q: WITNESS BARTA (AT P. 6) CONCLUDES THAT THE TRA SHOULD NOT CHANGE ITS PROCESS FOR ETC DESIGNATION IN LIGHT OF WHAT WITNESS BARTA CALLS THE COALITION'S RECOMMENDATION THAT THE TRA INCLUDE A PUBLIC INTEREST FINDING WITH RESPECT TO DESIGNATING ETCs IN RURAL SERVICE AREA. DO YOU HAVE A COMMENT ?

A: Yes, Witness Barta may not be familiar with specific provisions of the Telecommunications Act of 1996 which directly address this matter in a manner contrary to Mr. Barta's position. The public interest finding with respect to ETC designations in rural service areas is a statutory requirement that Congress specifically set forth in the Act. *See* 47 U.S.C. §§ 214(e)(1) and (2).

Q: WITNESS BARTA (AT P. 6) ALSO SUGGESTS THAT THE COMMENTS OF THE COALITION WITH RESPECT TO ETC DESIGNATION ARE RELATED TO ENTRY CERTIFICATION IN TENNESSEE. IS THIS CORRECT ?

A: No. The grant of a certificate of convenience and necessity involves entry regulation while ETC designation involves qualification for cost recovery support for fulfilling specific universal service obligations. A carrier does not have to be designated an ETC to receive a certificate of convenience and necessity.

Q: WITNESS BARTA THINKS (AT P. 7) THAT THE COALITION'S PLAN CONTAINS PROVISIONS WHICH FORECLOSE COMPETITIVE ENTRY INTO RURAL SERVICE AREAS. DO YOU AGREE ?

A: No. Witness Barta fails to identify which, if any, provisions of the Coalition's Plan would affect another carrier's right to enter a market and provide telecommunications services, or how any provision of the Plan would affect this right. In fact, the Coalition's Plan neither addresses nor affects entry regulation and certification policy. The Coalition members do not have any unilateral ability to prevent competitive entry. The TRA has the authority to decide certification requests. The Coalition members do not control whether there is "effective" competition. Many of the areas served by the Coalition members and the customers served by the Coalition members may never be subject to what Witness Barta considers effective competition. On the other hand, rural companies and their customers have long been subject to the effects of competition as larger toll users in rural communities are provided service alternatives that remove the customer's toll usage from the switched network access services provided by the rural company. Qualitative determination of "effective" competition is not a prerequisite to the provision of universal service support to rural companies and their customers. As reflected by §254 of the Act, Congress was keenly aware that the provision of comparable rates and services to rural customers is a national objective that must be achieved irrespective of whether a rural market area can support, or does support, meaningful competition.

Q: WITNESS BARTA BELIEVES (AT P. 8) THAT A RURAL CARRIER MUST WAIVE ITS EXEMPTION FROM SOME OF THE INTERCONNECTION REQUIREMENTS PRIOR TO RECEIVING UNIVERSAL SERVICE SUPPORT. IS HE CORRECT ?

A: No. Witness Barta's beliefs are based on a misunderstanding of the Act, a misunderstanding of the different subsets and hierarchy of the interconnection requirements, and an apparent reliance on the false presumption that competitive entry depends on the specific subset of interconnection requirements from which the Coalition

members are exempt as Rural Telephone Companies. *See* Watkins at pp. 23-27. As I explained in my direct testimony, the exemption from one subset of interconnection requirements does not mean that Rural Telephone Companies are exempt from the other requirements and does not mean that they are exempt from competition as Witness Barta apparently believes. *Id.* at 25-26. The Consumer Advocate and Protection Division properly states that “[t]here is no statutory language compelling a rural carrier to waive its rural exemption to receive universal support.” Brief of the Attorney General on the Threshold Issues, filed in this docket on November 14, 2000, at p. 2.

Q: ON BEHALF OF VERIZON WIRELESS, WITNESS JONES (AT PP. 4-5) CONCLUDES THAT “WIRELESS-TO-WIRELESS CALLS” AND “WIRELESS TERMINATION” SHOULD NOT BE INCLUDED WITH RESPECT TO A RURAL UNIVERSAL SERVICE FUND. DO YOU HAVE ANY RESPONSE ?

A: Yes. In my opinion, Witness Jones is attempting to frame and define issues that simply do not exist.

Regardless of the intent of his testimony, USF cost recovery support, as a matter of both law and policy, is not provided on the basis of the technology utilized, the directionality of a call, or the quantity of calls.

If the Verizon position is an attempt to elicit a resolution favorable to Verizon by suggesting that any potential calculation of state USF funds contribution should exclude consideration of wireless calls or that wireless carriers should not be required to contribute to a state universal service fund, then these issues have already been resolved. The federal plan requires all telecommunications carriers to contribute to the federal USF regardless of whether the contributing carrier qualifies for support. Interexchange carriers contribute without being eligible for support.

Moreover, the U.S. Court of Appeals for the Fifth Circuit, in a decision released on July 30, 1999, (No. 97-60421) has already addressed a state’s authority to require Commercial Mobile Radio Services (“CMRS”) providers to contribute to state USF funds. The Court rejected CMRS providers’ arguments that the Act somehow prevents states from including CMRS providers in the list of carriers subject to contribution responsibilities.

Q. DO YOU HAVE ANY COMMENTS WITH RESPECT TO BELL SOUTH’S POSITION IN THIS PROCEEDING?

17. At the outset, I am troubled by the fact that BellSouth elected not to file initial testimony or a Brief addressing the issues set forth by the Authority. I suspect that it is BellSouth’s intention to file a reply only in an attempt to avoid pre-filed rebuttal of the positions that BellSouth may espouse. On behalf of the Coalition, I respectfully request the opportunity to supplement this testimony in order to address any facts or positions that BellSouth may initially raise in its Reply testimony or brief. On the basis of my understanding of BellSouth’s positions, I will provide additional responses below and also comment on BellSouth’s Response to the Authority’s Information request.

Q: ASSUMING THAT BELL SOUTH TERMINATES THE WRITTEN CONTRACTUAL TERMS WITH THE COALITION MEMBERS THAT COVER THE CURRENT INTRALATA SETTLEMENT PLAN WITH BELL SOUTH, WHAT ARE THE ISSUES THAT WOULD HAVE TO BE ADDRESSED BY BELL SOUTH, THE TRA, AND THE COALITION MEMBERS ?

A: The termination of the settlement agreements renders the existing interconnection between BellSouth and the Coalition void of defined terms and conditions. Legal briefs and replies have been filed with the Authority setting forth the TRA's clear jurisdiction over BellSouth's interconnection with the Coalition members. The Coalition has requested that, in the absence of contractual agreement, the TRA mandate on an interim basis the continuation of the existing interconnection on terms and conditions that are the same as those set forth in the existing contracts which BellSouth has elected to unilaterally terminate.

In the absence of the TRA taking action as requested by the Coalition, numerous matters must be examined and resolved, including, but not limited to: (1) whether BellSouth, as the current designated intraLATA interexchange carrier, should be allowed to abandon toll service to the rural customers of the Coalition members; (2) what originating and terminating access charges will BellSouth pay to the Coalition members for intraLATA calls that BellSouth originates and terminates on the networks of the Coalition members; (3) if the TRA permits BellSouth to abandon the provision of toll services to rural areas, does the TRA have jurisdiction to require (and if so, should the TRA require) the small Coalition members to become intraLATA interexchange carriers and provide (or be responsible for) interexchange services that must be transported and terminated outside of each rural company's respective service area; and (4) if the TRA can and does require the Coalition members to provide intraLATA interexchange services, at what levels and on what basis will toll rates be established, and would the resulting rates be consistent with universal service principles and requirements?

Q: HAS BELL SOUTH EXPLAINED WHAT IT INTENDS TO DO IF IT TERMINATES CONTRACTS WITH THE COALITION MEMBERS ?

A: Yes. BellSouth has stated its unilateral intention to require arbitrarily that "each ILEC would begin paying other ILECs for termination of toll calls on the others' networks on the basis of filed switched access rates." (July 31, 2000 correspondence from BellSouth to each Coalition member.) Without TRA approval or participation, BellSouth apparently will attempt to require that each rural LEC become a toll carrier. Without TRA approval or participation, BellSouth has arbitrarily determined that its statewide originating toll services and tariff offerings will no longer be available to customers served by Coalition members. The self-serving BellSouth proposals, however, do not resolve any of the issues set forth above.

Regardless of what BellSouth apparently intends, BellSouth has taken no action to withdraw the intraLATA interexchange toll services currently provided by tariff.

Moreover, it would not be in the public interest for the TRA to allow BellSouth to unilaterally withdraw service. Finally, to the extent that BellSouth intends or will be allowed to abandon service, BellSouth has not undertaken any effort to communicate with end users about such a change.

Q: WHY DOES BELL SOUTH'S VIEW OF THE FINANCIAL IMPACT OF TERMINATION OF THE SETTLEMENT AGREEMENTS DIFFER FROM THE VIEW THAT THE COALITION MEMBERS HAVE REPORTED ?

A: BellSouth has apparently based its view and calculations on inaccurate assumptions. BellSouth assumes incorrectly that the local exchange carrier Coalition members will become intraLATA interexchange carriers if and when BellSouth unilaterally exits the intraLATA toll market in their service areas. Building on this incorrect assumption, BellSouth also assumes incorrectly that the Coalition members will, as toll carriers, assess the current BellSouth intraLATA toll rates. I believe, however, that this assumption is not sustainable in light of the likelihood that BellSouth will reduce its statewide intraLATA toll rates; when this occurs, it would be inappropriate for customers residing in the areas of the state served by the rural carriers to be left behind with higher toll rates that would be geographically and directionally deaveraged. Finally, BellSouth assumes incorrectly that the Coalition members will receive access revenues in accordance with existing access charge rate levels. The unlikelihood of this assumption is well established. It is because of the Coalition's concern for maintaining universal service principles, including the availability of geographically averaged toll rates, that the Coalition set forth its proposed state universal service and rate redesign plan that properly contemplates reductions in access charges assessed to all interexchange carriers.

The Coalition members' estimates of impact as first reported in their September 5 Comments is based on BellSouth terminating the current settlement financial terms and conditions and the results of the Plan proposed by the Coalition. In its discussions with the Coalition members over the last several months, one apparent objective of BellSouth has been to seek reductions in access charge rate levels of the Coalition members which, in turn, would allow the introduction of discounted toll calling plans and reductions in general toll rates. Regardless of BellSouth's desires, the movement in access charge levels is downward. Also, if BellSouth terminates the settlement agreement, the Coalition members have concluded that they would likely lose all of the billing and collection revenue currently received with respect to the settlements agreements with BellSouth. Finally, in estimating the change in access charge revenue, the Coalition members applied their current interstate access charge rate levels as a benchmark access rate level to calculate the impact of moving from the current, effective settlement plan access rate levels to these benchmark levels. In summary, the Coalition's estimates of the effect on their local exchange carrier operations includes the impact of the reduction in access rates to interstate levels for the current settlement traffic as well as the loss of billing and collection revenues.

Had BellSouth responded to item (d) of the data request, BellSouth would have reported amounts comparable to the estimates set forth by the Coalition members. However,



BellSouth failed to respond to this aspect of the Authority's data request.

Q: THE TRA ASKED BELL SOUTH TO PROVIDE DATA THAT WOULD QUANTIFY THE CHANGE IN COMPENSATION TO THE COALITION MEMBERS IF THESE COMPANIES' ACCESS AND BILLING AND COLLECTION RATES WERE LOWERED TO THE SAME LEVEL AS BELL SOUTH'S INTRASTATE RATES (STAFF'S SECOND REQUEST FOR INFORMATION, ITEM d.). DID BELL SOUTH PROVIDE THIS DATA TO THE TRA ?

A: No. BellSouth instead provided what it claims is a calculation that represents the effect of its unilateral cancellation of the contracts; I believe that its calculation incorporates flawed assumptions.

Again, I estimate that if BellSouth had responded correctly and fully to the TRA's request, the information would substantiate the estimates that the Coalition members have provided.

Q: WHAT SHOULD THE TRA DO IN RESPONSE TO BELL SOUTH'S FAILURE TO PROVIDE THE REQUESTED INFORMATION ?

A: On behalf of the Coalition, I respectfully request that the Authority compel BellSouth to provide the information that the Authority requested. In order to avoid any possible confusion, I suggest that the TRA clarify that BellSouth's response to item (d) should include the following information: (1) the amount of revenues each of the Coalition members would have received under the settlement plan with BellSouth for originating intraLATA toll minutes of use calculated at BellSouth's current intrastate access rates; (2) the amount of revenues each of the Coalition members would have received under the settlement plan with BellSouth for terminating intraLATA toll minutes of use calculated at BellSouth's current intrastate access rates; plus (3) the total billing and collection revenues each of the Coalition members would have received under the settlement plan with BellSouth for intraLATA message billing and collection calculated at BellSouth's current intrastate billing and collection rates. I would also suggest that BellSouth provide its current rate levels used in the calculation of its responses. The sum of these amounts can then be compared to current settlement amounts that the Coalition members receive.

Q: DO YOU HAVE ANY ADDITIONAL OR CONCLUDING COMMENTS?

A: Yes. In my experience in providing testimony in regulatory proceedings, I am often concerned that the nature of rebuttal or reply testimony requires me to focus on arguments and positions of other parties which, by their nature, may be confusing or obfuscating. In addressing matters of this nature head-on, I am reluctant to burden the record by fully repeating arguments and positions that I have more comprehensively addressed in my direct testimony. Accordingly, I respectfully refer the Authority again to my direct testimony which addresses the issues before the Authority in an orderly and complete manner. My direct testimony also anticipated and rebutted many of the positions set forth by other parties and those positions that I anticipated BellSouth would have filed if it had

elected to file initial testimony or brief on the issues designated by the Authority. Accordingly, this rebuttal testimony has focused on those aspects of matters raised by other parties that could leave the record confused or distorted if not addressed.

In closing, I would like to reiterate my concern that BellSouth chose not to file direct testimony or brief on the initial and threshold issues set forth by the Authority. BellSouth and other parties may use the rebuttal testimony phase of this proceeding to set forth comments and conclusions which should have been the subject of the initial phase of testimony. Accordingly, on behalf of the Coalition, I respectfully request the opportunity to supplement this testimony in order to address any additional facts or positions that BellSouth, or any other party, may submit in the rebuttal phase of this proceeding.

With respect to the Authority's data request to BellSouth, in addition to the Coalition's request that BellSouth be compelled to respond fully, I would also request the opportunity to supplement the record with quantitative and qualitative analysis addressing any subsequent response by BellSouth or the significance of BellSouth's failure to respond.

Q: DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY ?

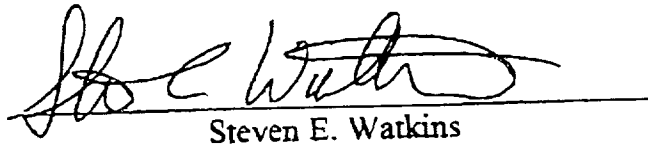
A: Yes.

DISTRICT OF COLUMBIA, ss:

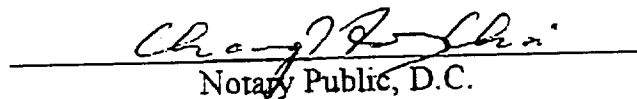
BEFORE ME, the undersigned authority, a Notary Public, duly commissioned and qualified in the District of Columbia, personally came and appeared Steven E. Watkins, who, being by me first duly sworn deposed and said that;

He is appearing as a witness on behalf of the Coalition of Small LECs and Cooperatives before the Tennessee Regulatory Authority and if present before the Authority and duly sworn, his rebuttal testimony would be as set forth in the pre-filed Rebuttal Testimony dated November 27, 2000, and filed in Docket No. 00-00523.

This 27th day of November, 2000.

  
Steven E. Watkins

Sworn to and subscribed before me this 27th day of November, 2000.

  
Notary Public, D.C.

My Commission Expires:

CHANG HO CHOL, NOTARY PUBLIC  
DISTRICT OF COLUMBIA  
COMMISSION EXPIRES: 6/14/2004



## CERTIFICATE OF SERVICE

I, Nancy Wilbourn, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, do hereby certify that a copy of the foregoing "Reply Testimony of Steven E. Watkins" was served on this 27th day of November 2000, Via Facsimile, to the following parties:

\_\_\_\_s/Nancy Wilbourn  
Nancy Wilbourn

Mr. David Espinoza  
Millington Telephone Company  
4880 Navy Road  
Millington, TN 38053  
Fax 901/872-2722

Mr. Guy M. Hicks, Esq.  
BellSouth Telecommunications, Inc.  
333 Commerce Street, Suite 2101  
Nashville, TN 37201-3300  
Fax 615/214-7406

Mr. Jon E. Hastings, Esq.  
MCI Telecommunications, Inc.  
d/b/a MCI WorldCom  
414 Union Street, Suite 1600  
Nashville, TN 37219  
Fax 615/252-2380

Mr. Dan H. Elrod, Esq.  
Attorney for Verizon Wireless  
Miller & Martin, LLP  
1200 First Union Tower  
150 Fourth Avenue North  
Nashville, TN 37219-2433  
Fax 615/256-8197

Mr. James B. Wright, Esq.  
Attorney for Sprint Comm. Co.  
14111 Capital Boulevard  
Wake Forest, NC 25787-5900  
Fax 919-554-7913

Mr. Richard M. Tettelbaum, Esq.  
Citizens Communications  
6905 Rockledge Drive, Suite 600  
Bethesda, MD 20817  
Fax 301/493-6234

Mr. Jim Lamoureux, Esq.  
AT&T  
Promenade 1  
1200 Peachtree Street, NE  
Atlanta, GA 30309  
Fax 404/810-5901

Mr. Henry Walker, Esq.  
Attorney for SECCA  
Boult, Cummings, et al.  
PO Box 198062  
Nashville, TN 37219-8062  
Fax 615/252-2380

Mr. Paul G. Summers, Esq.  
Attorney General & Reporter  
Consumer Advocate & Protection Division  
425 5<sup>th</sup> Avenue, N, 2<sup>nd</sup> Floor  
Nashville, TN 37243  
Fax 615/532-2910